

21 C.J.S. Courts § 69

Corpus Juris Secundum | May 2023 Update

Courts

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II. Jurisdiction of Courts

E. Mode of Acquiring Jurisdiction

1. In General

§ 69. Defendant subject to personal jurisdiction by service of process or appearance

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Personal jurisdiction over the defendant must be acquired by proper service of process on the defendant or by the defendant's voluntary appearance and submission to the court's jurisdiction.

Generally, personal jurisdiction over the defendant can be acquired only in two ways: (1) by proper service of process on the defendant,¹ and (2) by the defendant's voluntary appearance in court and submission to the court's jurisdiction² although personal jurisdiction and defects in personal jurisdiction are subject to the parties' consent, agreement, waiver, or estoppel.³

Generally, personal service of the defendant within the borders of the state of the defendant's residence is sufficient to invoke the jurisdiction of the court of that state.⁴

Under statutory provisions for substituted service, the court can acquire in personam jurisdiction over a defendant served by leaving process at the defendant's usual place of abode within the state or by serving valid original process and a copy of the initial pleading upon defendant's statutory agent.⁵ In the absence of personal service within the state, personal jurisdiction over a nonresident can be obtained in the statutory manner provided for substituted long-arm service of process,⁶ including service by publication,⁷ subject to the necessity of satisfying the constitutional prerequisites of minimum contacts and fundamental fairness for personal jurisdiction over nonresidents.⁸ Constructive service of process on a nonresident defendant confers only in rem or quasi in rem jurisdiction on the court, not personal jurisdiction.⁹

Mere knowledge¹⁰ or notice of proceedings, in the absence of service of process, is not enough to subject the defendant to the court's personal jurisdiction.¹¹

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Footnotes

- 1 Ga.—*Gowdy v. Schley*, 317 Ga. App. 693, 732 S.E.2d 774 (2012).

Kan.—*First Management, Inc. v. Topeka Inv. Group, LLC*, 47 Kan. App. 2d 233, 277 P.3d 1150 (2012).

N.C.—*Tobe-Williams v. New Hanover County Bd. of Educ.*, 234 N.C. App. 453, 759 S.E.2d 680, 306 Ed. Law Rep. 558 (2014).

N.D.—*Alliance Pipeline L.P. v. Smith*, 2013 ND 117, 833 N.W.2d 464 (N.D. 2013).

Okla.—*Guffey v. Ostonakulov*, 2014 OK 6, 321 P.3d 971 (Okla. 2014).

Utah—*Weber County v. Ogden Trece*, 2013 UT 62, 321 P.3d 1067 (Utah 2013).

Wash.—*Worden v. Smith*, 178 Wash. App. 309, 314 P.3d 1125 (Div. 3 2013).

As to personal service of process, generally, see C.J.S., Process §§ 42 et seq.
- 2 § 73.
- 3 § 72.
- 4 Idaho—*State, Dept. of Health and Welfare v. Housel*, 140 Idaho 96, 90 P.3d 321 (2004).
- 5 C.J.S., Process §§ 70 et seq.
- 6 C.J.S., Process §§ 100 et seq.
- 7 C.J.S., Process §§ 81 et seq.
- 8 § 46.
- 9 Fla.—*Scott-Lubin v. Lubin*, 49 So. 3d 838 (Fla. 4th DCA 2010).

W. Va.—Leslie Equipment Co. v. Wood Resources Co., L.L.C., 224 W. Va. 530, 687 S.E.2d 109 (2009).

A.L.R. Library

Jurisdiction on constructive or substituted service, in divorce or alimony action, to reach property within state, 10 A.L.R.3d 212.

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Utah—Bel Courtyard Investments, Inc. v. Wolfe, 2013 UT App 217, 310 P.3d 747 (Utah Ct. App. 2013).

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Utah—Weber County v. Ogden Trece, 2013 UT 62, 321 P.3d 1067 (Utah 2013).

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